

**PATENT APPLICATION****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Docket No: Q59776

Eric MAHR

Appln. No.: 09/648,537

Group Art Unit: 2663

Confirmation No.: 7787

Examiner: Min JUNG

Filed: August 28, 2000

For: WIRELESS INITIATED MESSAGING

DECLARATION UNDER 37 C.F.R. § 1.131

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Eric Mahr, hereby declare and state as follows:

I am the sole inventor named in the above-captioned U.S. patent application 09/648,537
(the '537 application, hereinafter).

I understand that, in an Office Action mailed May 3, 2004, the Examiner applied, as a
reference against claims 26-33 of the '537 application, a U.S. Patent No. 6,650,891 granted to
Wierzbitzki et al. (hereinafter "Wierzbitzki").

I further understand that claims 26-33 are rejected as being anticipated by Wierzbitzki.

I invented the subject matter of claims 26-33 of the present application, prior to August
24, 2000. As evidence, I rely on the following exhibits, which are described below in more
detail:

Exhibit A: A copy of the draft Application.

Best Available Copy

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Exhibit B: A copy of an email letter from Mr. J. Warren Lytle, Jr. to Mr. Ariel Goldstein.

Exhibit A is a copy of the draft Application (called "DRAFT") prepared by Mr. J. Warren Lytle, Jr., Esq. with Sughrue, Mion, Zinn, Macpeak & Seas, PLLC firm (as indicated by the case number and initials of the working attorney, "Q59776.JWL") for my review and commenting. On page 1 appears the title of the invention, "Wireless Initiated Messaging." At the very top of page 1 appears the date "August 19, 2000", which is the date this draft was prepared. The document was submitted for my review and commenting on or shortly after August 19, 2000. Pages 1-37 of the draft Application describe the invention.

Exhibit B is a copy of the original email sent to Mr. Ariel Goldstein of Converse Network Systems on August 22, 2000, in which another revised version of the Application was sent from the U.S. Attorney, Mr. J. Warren Lytle, Jr. with Sughrue, Mion, Zinn, Macpeak & Seas, PLLC firm. The email is titled "Further WIM Revisions."

Exhibit A, dated August 19, 2000, fully discloses the subject matter of all of the rejected claims 26-33, and proves that I invented the subject matter of claims 26-33 no later than August 23, 2000. Exhibit B corroborates the time frame of Exhibit A. Also, Exhibit B shows diligence in the constructive reduction to practice of the invention.

The support for each of the claims may be found in the Exhibit A. For example, claims 26-33 of the Exhibit A correspond to claims 26-33 of the present application. The locations are

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representative only, and further support for the claimed subject matter may be found at other locations in the draft Application.

In view of the foregoing, it is clear that I, the named inventor of the present '537 application, invented the subject matter of all of claims 26-33 prior to the August 24, 2000 the filing date of the Wierzbitzki reference cited in the Office Action.

I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date:

July 18/2004

Eric MAHR